Systems Update

A publication of the South Carolina Retirement Systems

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From the Director

Our perspective on the Kennedy case

You may have seen recent news reports about a South Carolina State Supreme Court decision affecting the South Carolina Retirement Systems. We would like to share with you what has taken place and how it may affect you.

In 1986, the South Carolina General Assembly amended the statute governing the computation of the retirement benefit for members of the South Carolina Retirement System (SCRS) and the Police Officers Retirement System (PORS). The stated purpose of the amendment was to revise the calculation of the average final compensation (AFC) to use the *12 highest consecutive quarters of compensation* rather than the *three highest consecutive fiscal years of compensation*. However, the amendment also changed the language concerning the inclusion of unused annual leave in the AFC.

In Kennedy et al. versus the South Carolina Retirement Systems and the South Carolina State Budget and Control Board, the plaintiffs contended that the effect of the new language regarding annual leave was to significantly increase the retirement benefit. The Retirement Systems interpreted the language as having no impact and continued to credit unused annual leave in the method used prior to the 1986 change in the law. On May 22, 2000, the South Carolina State Supreme Court ruled in favor of the plaintiffs and returned the case to the lower court for final resolution.

Using a simplified example will best illustrate the issue and the potential impact on the Retirement Systems. Let's assume a retiring member has 45 days of accrued annual leave and a salary of exactly $30,000 per year for three consecutive years (or $7,500 per quarter for 12 consecutive quarters). Both the plaintiffs and the Retirement Systems would agree that the value of the annual leave is approximately $5,200; however, they would calculate the retirement benefit differently.

Retirement Systems' Calculation Method

$$\frac{\$30{,}000 + \$30{,}000 + \$30{,}000 + \$5{,}200}{3 \text{ years}} = \frac{\$95{,}200}{3 \text{ years}} = \mathbf{\$31{,}733 \text{ per year}}$$

Plaintiffs' Calculation Method

$$\frac{(\$30{,}000 + \$30{,}000 + \$30{,}000)}{3 \text{ years}} = \frac{\$90{,}000}{3 \text{ years}} = \$30{,}000 + \$5{,}200 = \mathbf{\$35{,}200 \text{ per year}}$$

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From the Director

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The plaintiffs' calculation method yields a retirement benefit approximately 11 percent higher than the Retirement Systems' method. This approximate difference will occur in all cases where a retiree has 45 days of unused leave, regardless of salary.

The Court's decision requires the recalculation of benefit amounts for members who retired since 1986 and reimbursement of underpayments back to 1992. The recalculation of benefits will also apply to future benefit payments for all post-1986 retirees. Almost 50,000 members who retired since 1986 may be eligible for a recalculation of their benefit.

Actuarial and accounting standards require that the Supreme Court's calculation method must be applied to all 200,000 active members in addition to the members who retired or will retire between 1986 and 2001. The Retirement Systems does not have the discretion to revise the benefit amount backwards and then ignore the law for those same retirees in all future payments, or for all future retirees.

We cannot ignore the future liability created by the new method of calculation. The Retirement Systems' actuary estimates future liability of about $1.7 billion. The retroactive liability is $200-$250 million and approximates the estimate used by the plaintiffs and the Court.

These estimates are based on an assumption of 22.5 days average annual leave credit at retirement. The retroactive liability does not include interest that might be awarded by the lower court. In total, the recalculation of the retirement benefit may cost the Retirement Systems almost $2 billion.

We are uncertain of other effects the Court's decision will have on your future benefits. As you may know, retirees usually receive annual cost-of-living adjustment (COLA) increases funded from the trust fund. For a COLA to be granted, the Retirement Systems' actuary must first determine that the systems' assets are sufficient to fund the COLA. Then, the State Budget and Control Board must approve the COLA. The liability resulting from the Court's decision may affect the systems' ability to fund future COLAs. If Retirement Systems' funds are insufficient, the Board will likely ask the General Assembly to fund the COLA in the General Appropriations Act.

The State Budget and Control Board requested a reconsideration of the Supreme Court's decision June 21, 2000. On July 24, 2000, the Supreme Court granted the State Budget and Control Board's request for a rehearing of the Court's decision, which will provide an opportunity for new arguments to be heard.

Although there is uncertainty as to the full impact of the Court's decision and as to whether that decision will change, we will continue to monitor the situation and advise you of any developments.

Bob Toomey

Payment plan changes effective January 1, 2001

Effective January 1, 2001, the payment plans available to you at retirement will change. These changes affect both the South Carolina Retirement System (SCRS) and the Police Officers Retirement System (PORS).

Option A (Maximum Retiree Only)

Option A is a retiree only monthly annuity plan that will pay you a standard lifetime benefit based on your average final compensation, years of service, and a multiplier. Upon your death, the Retirement Systems will return, through a lump-sum payment to your beneficiary, or your estate, any member contributions and interest not paid to you in benefits during your retirement.

Option B (100% - 100% Joint Retiree-Survivor)

Option B is a joint retiree-survivor plan through which you will receive a reduced (from the maximum) monthly benefit for life. Upon your death, the benefit (100 percent of your benefit including granted cost-of-living increases) will continue throughout your beneficiary's lifetime. If your designated beneficiary predeceases you, your benefit will revert to Option A (maximum payment plan), including cost-of-living increases granted since your retirement date.

Option C (100% - 50% Joint Retiree-Survivor)

Option C is a joint retiree-survivor plan similar to Option B; however, upon your death, your beneficiary will receive one-half of your benefit for his or her lifetime.

If you designate multiple beneficiaries, all beneficiaries must predecease you to revert to Option A.

Change in marital status

Regardless of the original option selected, you may select a new beneficiary and option within one year of a change in marital status. You may make this change only twice. Reverting to Option A counts toward this limitation of post-retirement changes.

Proration of benefit at retiree's death eliminated

Effective July 1, 2000, the final month's benefit paid when a retired member dies is no longer prorated.

If the monthly benefit has not already been paid to the deceased member, then the retired member's beneficiary or estate is entitled to receive the entire benefit amount for the month in which the retiree's death occurs.

If a retiree selects a survivor benefit for his or her beneficiary, the monthly payment will begin the month following the retired member's death.

We will notify you when this change becomes law.

Cost-of-living adjustment formula changes

Effective January 1, 2001, if an annual cost-of-living adjustment (COLA) for retirees is approved, the COLA will be calculated as follows: if the Consumer Price Index (CPI) increases at least 4 percent in the previous year, the COLA will be 4 percent; if the CPI increases less than 4 percent, the COLA will be equal to the CPI increase. ***We will notify you when this change becomes law.***

Effective July 1, 2000, the COLA for retirees and beneficiaries of the South Carolina Retirement System (SCRS) and the Police Officers Retirement System (PORS) will be 2.7 percent.

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Retiree Group Life Insurance increases

The life insurance amounts paid to a retired South Carolina Retirement System (SCRS) or Police Officers Retirement System (PORS) member's beneficiary will increase to the amounts below effective July 1, 2000.

We will notify you when these changes become law.

SCRS years of service	PORS years of service	Insurance amount
10 - 19 years	10 - 19 years	$2,000
20 - 29 years[1]	20 - 24 years	$4,000
30 years or more[1]	25 years or more	$6,000

[1]Effective January 1, 2001, 28-year retirement for SCRS members takes effect and will change the years of service ranges to *20-27 years* for the $4,000 benefit and *28 years or more* for the $6,000 benefit.

This issue of *Systems Update* is dedicated to Purvis Collins, former Retirement Systems director, who died April 7, 2000.

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A publication of the South Carolina Retirement Systems
PO Box 11960
Columbia, SC 29211-1960

1-800-868-9002 (in SC only)
1-803-737-6800

Robert C. Toomey
Director

Megan L. Reynolds
Editor

Heather Muller
Assistant Editor

Email comments or suggestions to mreynolds@scrs.state.sc.us.